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IN THE
Supreme Court of the United States

OCTOBER TERM, 1973

No. 72-1052

ROGERS C. B. MORTON, Secretary of the Interior,
Petitioner,

v.

RAMON RUIZ and ANITA RUIZ,
Respondents.

On Certiorari to the United States Court of Appeals
for the Ninth Circuit

MOTION FOR LEAVE TO FILE BRIEF AMICI CURIAE

BRIEF OF AMICI CURIAE,

**ARAPAHOE TRIBE OF WYOMING,
CONFEDERATED SALISH & KOOTENAI
TRIBES OF MONTANA,**

**HOOPA VALLEY TRIBE OF CALIFORNIA,
QUINAUULT TRIBE OF WASHINGTON,
THREE AFFILIATED TRIBES OF
FORT BERTHOLD RESERVATION,
NORTH DAKOTA**

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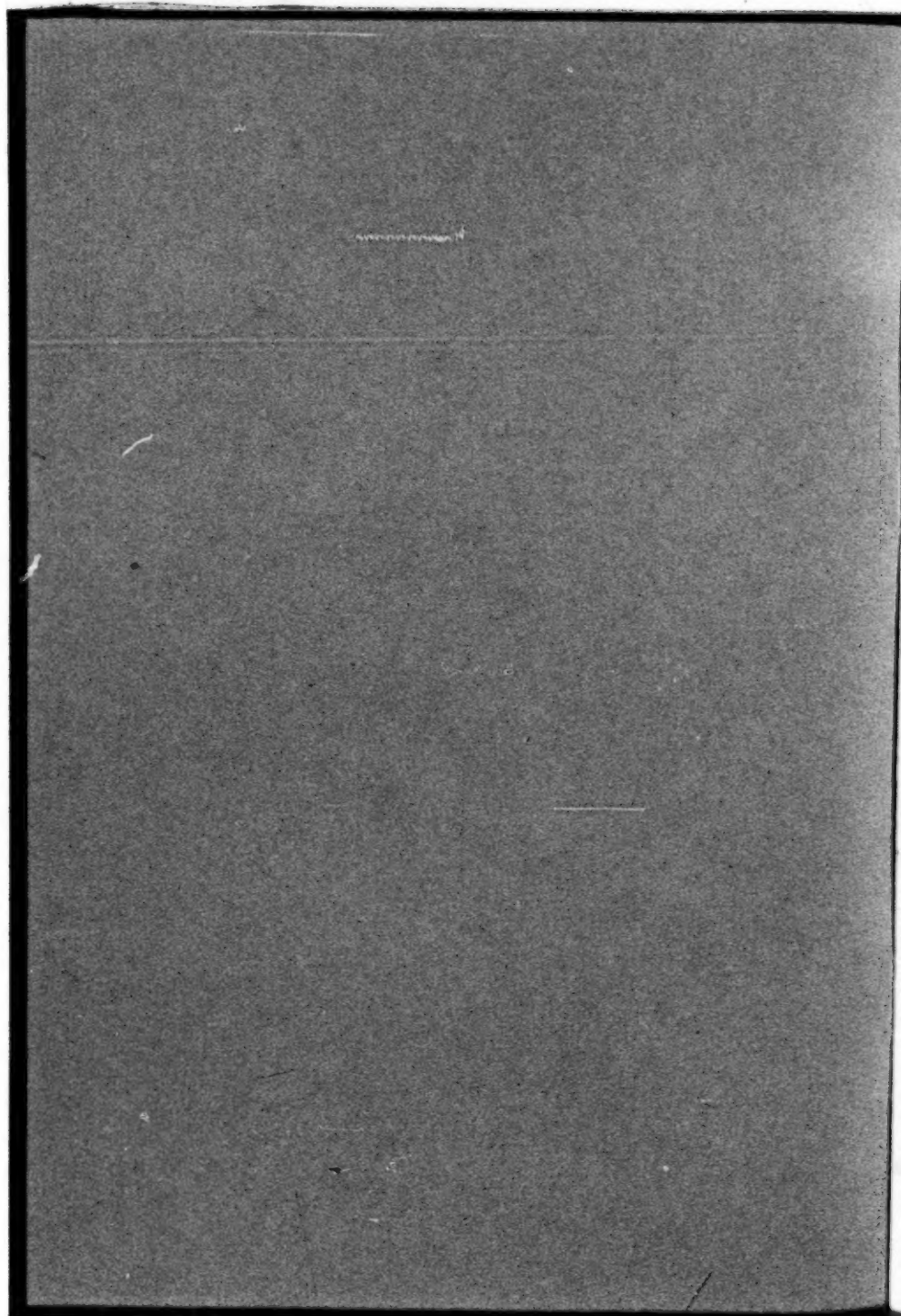


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Come now the Arapahoe Tribe of Wyoming, the Confederated Salish and Kootenai Tribes of Montana, the Hoopa Valley Tribe of California, the Quinault Tribe of Washington, and the Three Affiliated Tribes of the Fort Berthold Reservation of North Dakota, and respectfully move for leave to file the attached amici curiae brief. Amici have not obtained the consent of both parties to this filing.

We believe that the attached brief will be helpful to the Court. The interest of the movants is stated in the brief.

Respectfully submitted,

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I. STATEMENT OF INTEREST

The amici Indian tribes named above are all organized, self-governing tribes, recognized as such by the Secretary of the Interior. The tribes and their respective members

who live on the reservations receive general assistance benefits, as well as other aid, from the Secretary of the Interior and therefore have a vital interest in a determination as to whom the Secretary must pay such benefits. To the extent that the Secretary of the Interior must use his limited appropriated funds to provide general assistance payments for off-reservation Indians, members of the amici tribes living on the reservations will suffer. Your amici therefore support the Secretary of the Interior in urging this Court to reverse the decision of the Ninth Circuit Court of Appeals.

II. ALTHOUGH OFF-RESERVATION INDIANS ARE NOT PRECLUDED BY THE SNYDER ACT FROM RECEIVING GENERAL ASSISTANCE BENEFITS, CONGRESS HAS NOT APPROPRIATED ENOUGH MONEY FOR THIS PURPOSE.

Amici agree with respondents, Ramon and Anita Ruiz, to the extent that they assert that off-reservation Indians are not precluded from receiving general assistance benefits by the Snyder Act.¹ Amici contend, however, that Congress has neither appropriated enough money for this purpose, nor intended to do so.

The Snyder Act states in the broadest of terms that "[t]he Bureau of Indian Affairs, under the supervision of the Secretary of the Interior, shall direct, supervise, and expend such moneys as Congress may from time to time appropriate, for the benefit, care, and assistance of the Indians throughout the United States" for certain named purposes. As such, it was clearly intended as a general enabling act for a variety of programs administered by the Bureau of Indian Affairs for which Congress would appropriate money each year.

¹ 42 Stat. 208, 25 U.S.C. § 13.

Congress appropriated only a very limited amount of money for the Bureau of Indian Affairs to provide a number of different educational and welfare services for Indians during 1968, the fiscal year in question. The Department of the Interior and Related Agencies Appropriation Act for 1968² states:

BUREAU OF INDIAN AFFAIRS EDUCATION AND WELFARE SERVICES

For expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment (in advance or from date of admission), of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order, and payment of rewards for information or evidence concerning violations of law on Indian reservations or lands; and operation of Indian arts and crafts shops; \$126,478,000.

Although this Act does not specify the beneficiaries of the general assistance program, its legislative history clearly manifests that no moneys were appropriated for off-reservation Indians. The hearings before both the House and Senate Committees contain a summary of the Bureau of Indian Affairs' requests for general assistance funds which state that, "General assistance will be provided to needy Indians *on reservations* who are not eligible for public assistance under the Social Security Act . . . and for whom such assistance is not available from established welfare agencies or through tribal resources."³

² P.L. 90-28, 81 Stat. 59, 60.

³ Hearings on Department of Interior and Related Agencies Appropriations for 1968, H.R. 9029, before Subcomm. of the House Appropriations Comm., 90th Cong., 1st Sess., pt. 1, at 777 (1967) (emphasis added). Hearings on Department of Interior and Re-

The appropriated funds are scarce enough when it is considered that they are designed to provide a number of different programs for a reservation population of 213,770, according to the 1970 census.⁴ If the same money must also cover general assistance benefits for all Indians living on or near reservations, i.e., all Indians under the Bureau of Indian Affairs jurisdiction which was estimated at 400,000 in 1968,⁵ the amount available for all services for reservation Indians would obviously be greatly diminished, and its intended purposes be rendered virtually ineffective.

CONCLUSION

It may very well be that the Secretary of the Interior did not properly meet his responsibilities when he failed to request appropriations to provide general assistance benefits to urban Indians. It may also be true that the Congress was remiss in failing to provide the necessary appropriations. The plight of the urban Indian is a serious one and nothing in this brief is meant to imply that urban Indians should, as a matter of equity, necessarily be denied benefits merely because they have left their reservations. The fact remains, however, that Congress has not provided the money to do the job and desperately poor reservation Indians should not be placed in the position of having their plight significantly worsened by having available general assistance funds spread

lated Agencies Appropriations for 1968, H.R. 9029, before Subcomm. of the Senate Appropriations Comm., 90th Cong., 1st Sess., pt. 1, at 695 (1967) (emphasis added).

⁴ United States Department of Commerce, Bureau of Census, 1970 Census of Population, American Indians, Table 17, at 190-91.

⁵ Hearings on Department of Interior and Related Agencies Appropriations for 1969, H.R. 17354, before Subcomm. of the Senate Appropriations Comm., 90th Cong., 2d Sess., at 368 (1968). The government's brief lists Department of the Interior 1972 estimates. Brief for Petitioner at 17.

among a much larger group than Congress intended or than the funds can decently provide for. Affirmance of the decision of the Court below would result in serious injustice and hardship to the needy Indian people of the reservations.

Amici curiae respectfully request that the judgment of the United States Court of Appeals for the Ninth Circuit be reversed.

Respectfully submitted,

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WILKINSON, CRAGUN & BARKER
Of Counsel

September 19, 1973

CERTIFICATE OF SERVICE

Motion and brief served this 19th day of September by mailing copies to the Solicitor General of the United States, Department of Justice, Washington, D. C. 20530, attorney for petitioner, and to Winton D. Woods, Jr., University of Arizona, College of Law, Tucson, Arizona 85721, and Lindsay E. Brew, P. O. Box 246, Sells, Arizona 85634, attorneys for respondents.

Jerry C. Straus

